

RESOLUTION NO. 18-48
A RESOLUTION TO ADOPT A RIGHT TO FARM AND RANCH POLICY

WHEREAS, Article XII, Section 1 (1) of the State of Montana constitution states, "The legislature shall provide for a Department of Agriculture and enact laws and provide appropriations to protect, enhance, and develop all agriculture". Lake County contains over a million acres of land, approximately 53% is under commercial agricultural production and much of the remainder is associated with commercial enterprises supporting agriculture, new agriculture of all sizes and types, or is under residential usage as pasturelands, home gardens, vineyards, orchards, or open space; and

WHEREAS, objective 1.2.1 of the 2018 Lake County Growth Policy is intended, in part, to conserve agricultural resources. Adopting a Right-to-Farm ordinance is listed as an action item under this objective, with a sign of success being that agricultural producers will thrive for decades to come; and

WHEREAS, Lake County recognizes that agriculture is a significant component of our history, culture, industry, and economy, and as such the County would like to express the belief that agriculture and its associated practices are not inherently a nuisance, they are an art and a science; and

WHEREAS, Two-thirds of Lake County intersects the Flathead Indian Reservation. Tribal and nontribal individuals participate in agricultural activities of all types, and support for agriculture from all governmental entities is important. Much of the irrigated land in Lake County is served by the Flathead Indian Irrigation Project (FIIP). This and other irrigation systems provide water, water storage, and water distribution facilities for many irrigators. Many agricultural producers in Lake County also participate in numerous state and federally funded agricultural programs; and

WHEREAS, over the past fifty years Lake County has experienced significant changes in land use, demography, development patterns, and economics which have increased the incidence of conflicts between agricultural operators, visitors to, and residents of Lake County, and such changes are beginning to threaten the economic viability of agricultural operations which will likely become further impacted as changes continue into the foreseeable future. Examples of such conflicts include, but are not limited to, harassment and loss of livestock due to free roaming dogs; at-large livestock; trespass by individuals; livestock and farm vehicles on highways and private and public roadways; herding of livestock; leaving gates open; fence construction and maintenance; chemical applications; maintenance of ditches across private property; access to irrigation infrastructure; storm water management; taking irrigation water; burning of ditches and fields; complaints about noise, dust and odor, disposal of dead animals, weeds, pest and predator control, and

WHEREAS, Lake County believes in adopting a guiding policy created in accordance with 27-30-101(3), Montana Code Annotated (MCA), which states, "An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public or private nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation."; and

WHEREAS, it is desirable to educate the public, residents, and visitors to Lake County, about the existence, validity, and importance of the County's agricultural and agriculturally related history, operations, practices, activities, and opportunities; and

WHEREAS, agricultural opportunities on all lands that have been historically used for agriculture in Lake County should be preserved wherever possible. This should be considered in applications for conservation easements and trust acquisitions, in addition to habitat mitigation purchases by various entities; and

WHEREAS, it is desirable to protect agricultural operators from complaints about legal and commonly accepted agricultural operations, practices, and activities; and

WHEREAS, there are a number of family agricultural operations for personal and family use occurring in the County and we recognize the value and importance of protecting the rights of such operators if they manage their operation legally, responsibly, and non-negligently so as not to adversely impact the public or commercial operators and to this extent, the family operations could reasonably be required to abide by some of the same rules and practices required of other producers; and

WHEREAS, pursuant to 76-2-901, MCA it is the declared policy of the State of Montana to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products; and further that the legislature recognizes that when nonagricultural land uses extend into agricultural areas, agricultural operations may be forced to cease operations and many others are discouraged from making investments in farm improvements; and that is the purpose of the law to reduce the loss to the State of Montana of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance; and

WHEREAS, the Board of Lake County Commissioners has determined that it is desirable and beneficial to the citizens of Lake County to establish and adopt, by resolution, a Right to Farm and Ranch Policy involving the elements of protection of agricultural operations, protection of the individual property rights of all residents, and education of property owners and the public; and

WHEREAS, the Board of Lake County Commissioners acknowledges that some agricultural practices have been and are intermittent in nature, and those intermittent and historic practices are included and protected in the declarations set forth in this Policy; and

WHEREAS, Lake County recognizes that agriculture and associated practices are constantly evolving and such changes can help to benefit and sustain the County's economy and agricultural industry and to that extent, alternative more progressive mechanisms or methods of agricultural activities are encouraged where ever possible; and

WHEREAS, Lake County recognizes that ancillary uses are an important component of agricultural operations and the County may choose to recognize some of those uses as conditional to lessen possible impacts and abuses; and

WHEREAS, pursuant to this resolution, the Board of Lake County Commissioners should research and advise potential measures in order to:

- a. Maintain, conserve, enhance, and encourage traditional ranching and farming, alternative agriculture, value-added agriculture, and all manners of other agriculturally related opportunities, activities, practices, and operations throughout the County; and

- b. Minimize potential conflicts between agricultural and non-agricultural users of land in the County; and
- c. Educate County residents, visitors, and agricultural operators to their rights, responsibilities, and obligations relating to agricultural and agriculture related activities and opportunities; and
- d. Reasonably accommodate the housing needs of the agricultural work force; and
- e. Initiate and integrate planning efforts that are possible, practical, and provide for the retention of agricultural lands in agricultural production, while still providing opportunities for reasonable residential and recreational or other compatible development or uses that are designed to protect the natural and cultural environment, wildlife, wildlife habitat, and provide for efficient delivery of public services; and

WHEREAS, the establishment of and adoption of a Right to Farm and Ranch Policy would benefit the economy and serve to promote and further the public health, safety, and general welfare of the citizens of and visitors to the County; and

WHEREAS, Lake County began working towards adopting a Right to Farm and Ranch Policy in 2015 and 2016. On February 10th and March 9th of 2016, the Lake County Planning Board held public hearings to discuss the proposed policy language and any public comment that had been provided; and

WHEREAS, since 2016, the Lake County Planning Department has been re-staffed, several of the Planning Board members are newly appointed, the Density Map and Regulations have been repealed and are now used as an advisory component of the growth policy to guide development, and the 2018 Lake County Growth Policy has been adopted. Much has changed since 2016 when the Right to Farm Policy was last discussed. In light of this, the right to farm and ranch discussion was revived in July of 2018; and

WHEREAS, after considering the recommendations and suggestions elicited at the July 11th and August 8th public hearings, at a public hearing held on September 12th, 2018, the Lake County Planning Board recommended the Board of Lake County Commissioners adopt the Lake County Right to Farm and Ranch Policy with changes as recommended by the Planning Board, and to pursue the goals, objectives, and actions therein; and

WHEREAS, Lake County's intention to adopt a Right to Farm and Ranch Policy was publicly noticed and public comments, both written and verbal were invited and considered, including comments made up to the date of the scheduled public hearing; and

WHEREAS, On October 24th, 2018, the Lake County Board of Commissioners passed a Resolution of intention (Res.18-46) to adopt a Right to Farm and Ranch Policy; and

WHEREAS, the Board of Lake County Commissioners published notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county; and

WHEREAS, the Board of Lake County Commissioners invited written comment concerning the text amendments for 30 days after the first publication of the notice. No comment was received; and

WHEREAS, on December 5, 2018, within 30 days after the expiration of the comment period, the Lake County Commissioners held a public hearing and passed a resolution to adopt a Right to Farm and Ranch Policy; and

NOW THEREFORE, BE IT RESOLVED by the Lake County Board of Commissioners to pass a resolution to adopt a Right to Farm and Ranch Policy.

RESOLUTION OF INTENTION TO ADOPT PASSED, APPROVED AND ADOPTED this 5th day of December, 2018, by the Lake County Board of Commissioners.

Gale Decker Dave Stipe - Not in to sign -
Gale Decker, Chairman Dave Stipe, Commissioner William Barron, Commissioner

Attest:

Paula A. Holle
Paula A. Holle, Lake County Clerk & Recorder